

ESTTA Tracking number: **ESTTA473201**

Filing date: **05/18/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91194361
Party	Plaintiff ArtBanc International, Ltd., Inc.
Correspondence Address	JOHN M CONE HITCHCOCK EVERT LLP PO BOX 131709 DALLAS, TX 75313 1709 UNITED STATES jccone@hitchcockevert.com, docket@hitchcockevert.com, ksimpson@hitchcockevert.com
Submission	Motion to Compel Discovery
Filer's Name	John M. Cone
Filer's e-mail	jccone@hitchcockevert.com, docket@hitchcockevert.com, ksimpson@hitchcockevert.com
Signature	/s/ John M. Cone
Date	05/18/2012
Attachments	120518 Motion to Compel Responses.pdf (3 pages)(11557 bytes) 120518 Declaration of John M Cone and Exhibits.pdf (24 pages)(719499 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 78/724,975 ARTBANK

ARTBANC INTERNATIONAL, LTD

Opposer,

v.

ARTBANK.COM LIMITED,

Applicant.

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Opposition No. 91194361

TO THE HONORABLE TRADEMARK TRIAL AND APPEAL BOARD

**MOTION TO COMPEL RESPONSES TO
INTERROGATORIES AND REQUESTS FOR PRODUCTION**

Opposer, ArtBanc International, Ltd., Inc. files this Motion to Compel Applicant, Artbank.com, Ltd. to respond to Interrogatories and Request for Production of Documents and would respectfully show the Board as follows:

Discovery in this Opposition closed on April 4, 2012 in accordance with the Board's Order of September 20, 2011. Prior to the close of Discovery, on March 27, 2012, Opposer served Applicant's counsel of record Opposer's First Set of Interrogatories, Requests for Admission and Requests for Production (the "Discovery Request"). A copy of this discovery request is attached marked Exhibit A to the Declaration of John M. Cone filed in support of this Motion.

Applicant's responses to the Discovery Requests were due on May 1, 2012 (Fed. R. Civ. P. 34 (b)(2)(A) and 37 CFR § 2.119(c), 2.120(a))

Applicant has not responded to the Discovery Request, nor has it sought an extension of time to respond, nor has it moved the Board for a Protective Order.

By failing to respond, Applicant has waived any objection to the Discovery Requests and is required to answer them as presented.

Opposer requests that the Board enter an Order requiring Applicant to respond to the Interrogatories and Requests for Production contained in the Discovery Requests as put without further delay. No relief is requested regarding the Requests for Admissions because by failing to respond in a timely manner, Applicant is deemed to have admitted them. Fed R. Civ. P. 36(a)(3).

In accordance with 37 C.F.R. § 2.120(h)(1), Opposer has made a good faith effort by correspondence to resolve with the Applicant the issues presented in this Motion and has been unable to reach agreement. In particular, the attorney for the opposer wrote the Applicant's attorney of record requesting that Applicant answer the discovery and that he call Opposer's attorney to discuss. Opposer's attorney sent a reminder May 17, but has received no reply. See Declaration of John M. Cone, ¶¶ 5-7.

Dated: May 18, 2012

Respectfully submitted,

/s/ John M. Cone
John M. Cone
Hitchcock Evert LLP
P.O. Box 131709
Dallas, Texas 75313-1709
(214) 880-7002 Telephone
(214) 953-1121 Facsimile
jccone@hitchcockevert.com

ATTORNEY FOR OPPOSER
ARTBANC INTERNATIONAL, LTD

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of May 2012, a true and correct copy of the foregoing document was served via U.S. First Class Mail, postage prepaid on Keith Barritt, Fish & Richardson P.C., P.O. Box 1022, Minneapolis MN 55440-1022.

/s/ John M. Cone
John M. Cone

In the Matter of Application Serial No. 78/724,975 ARTBANK

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## Opposition No. 91194361

## 1

6. Attached marked Exhibit D is a copy of a follow-up email sent on May 17.

7. I have not received a response either to my letter or my email.


I declare under penalty of perjury, 28 U.S.C. § 1746, that the foregoing is true and correct.

Dated: May 18, 2012

  
\_\_\_\_\_  
John M. Cone

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18th day of May 2012, a true and correct copy of the foregoing document was served via U.S. First Class Mail, postage prepaid on Keith Barritt, Fish & Richardson P.C., P.O. Box 1022, Minneapolis MN 55440-1022.

  
\_\_\_\_\_  
John M. Cone

# Exhibit A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the Matter of Application Serial No. 78/724,975 ARTBANK**

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**ARTBANC INTERNATIONAL, LTD., INC.**

**Opposer,**

**v.**

**ARTBANK.COM LIMITED,**

**Applicant.**

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**Opposition No. 91194361**

**OPPOSER'S FIRST SET OF INTERROGATORIES, REQUESTS FOR  
ADMISSION AND REQUESTS FOR PRODUCTION**

Opposer, ArtBanc International, Ltd., Inc. ("Opposer" or "ArtBanc"), successor to ArtBanc International, Ltd., in accordance with Rules 33 and 36 and other applicable rules under the Federal Rules of Civil Procedure and Rules 2.116 and 2.120(d) of the Trademark Rules of Practice, propounds the following Interrogatories, Requests for Admissions and Requests for Production. The Interrogatories are to be answered by Applicant Artbank.Com Limited ("Applicant") under oath. Responsive documents should be produced as stated in Definitions and Instructions No. 17.

**DEFINITIONS AND INSTRUCTIONS**

1. "Opposer" refers to ArtBanc International, Ltd., Inc.
2. "You," "your," or "Applicant" refers to Artbank.Com Limited, its officers, directors, employees, agents, affiliated corporations, and its predecessors-in-interests.
3. The "Applied-For Mark" refers to the mark that is the subject of Application Serial No. 78/724975, namely the word ARTBANK.



4. These Interrogatories should not be deemed to seek answers limited as of the date hereof, but should be deemed to be continuing so that any additional information relating in any way to these Interrogatories that Applicant acquires or that becomes known to Applicant, at any time up to and including the time of trial in this matter, must be furnished to the Petitioner promptly, after such information is acquired or becomes known.
5. When answering and responding to these Interrogatories, Applicant is requested to furnish all information available to Applicant, your attorneys, investigators, or any other person acting on your behalf and not merely such information as is known of your personal knowledge. If you cannot answer or respond in full after exercising due diligence to secure the information, answer, or respond to the extent possible, and specify the reason for your inability to answer or respond to the remainder.
6. If you do not answer an Interrogatory because of a claim of privilege, set forth the privilege claimed and the facts on which you rely to support the claimed privilege. This includes providing a written log identifying any documents that are withheld from production under a claim of privilege. The log must include documents withheld from any Interrogatory made in this litigation based upon a claim of privilege. The log should contain the following:
  - a. nature and type of document;
  - b. title of the document, if any, and the general topic or general subject matter addressed by the document;
  - c. dates on which the document was prepared, transmitted, and received;
  - d. the claimed grounds for privilege or limitation of discovery; and
  - e. such other information as is sufficient to identify the document, including, where appropriate, the author of the document, the addressee and other recipients of the document, and the relationship of the author and addressee to each other.
7. Each Interrogatory should be answered separately. You are also requested to avoid references to prior answers because questions differ and prior answers may not be fully responsive.
8. As used herein, "and" as well as "or" should be construed either disjunctively or conjunctively in order to bring within the scope of the Interrogatories any information that might otherwise be construed to be outside the scope of this request.

9. "Person" includes any natural person, including but not limited to present and/or former officers, directors, employees, agents, attorneys, partners, spouses, and any trust, firm, corporation, association, partnership, enterprise, sole proprietorship, public or private entity, or any other form of legal entity.
10. "Evidencing" or "evidences" means tending to show, in any probative manner, the existence or nonexistence of a matter. "Evidencing" or "evidences" also includes concerning, relating to, referring to, describing or constituting.
11. "Relating" or "relates" mean, in addition to their customary and usual meanings, discussing, referring to, pertaining to, reflecting, evidencing, showing, or recording.
12. "Document(s)" is used in the broadest sense permissible under the Federal Rules of Civil Procedure and the Rules of the Trademark Trial and Appeal Board, and shall mean and include the original, or a copy thereof, if the original is not available, of every written, printed, typed, recorded, reported or graphic record or material including every draft and/or non-identical copy thereof of every type and description that is in the actual or constructive possession, control or custody of you or your attorneys, including, but not limited to, all correspondence, letters, communications, memoranda, notes, agreements, contracts, proposed contracts or agreements, whether or not actually consummated, reports, logs, studies, summaries, agenda, bulletins, notices, announcements, instructions, charts, manuals, models, graphs, photographs, brochures, publications, books, minutes, including minutes of board of directors meetings and executive meetings, partnership meeting and management or executive partnership committee meetings, computer printouts, schedules, drawings, tape or other voice recordings, videotapes, simulations, intra and inter-company memoranda, articles of newspapers, magazines and other publications, telegrams, purchase orders, lists, proposals, invoices, plans, specifications, addenda, statements, receipts, confirmation slips, evidence of payments, bills, diaries, calendars, bills of lading, canceled checks, any copy of a document bearing notations, markings, or writings of any kind or nature different from the original, any and all files from any personal computer, notebook, or laptop computer, file server, minicomputer, mainframe computer, or other storage device, including but not limited to hard disk drives or backup or archival tapes (whether stored on-site or at an off-site storage facility). This encompasses all forms and manifestations of electronically stored and/or retrieved electronic information, including but not limited to e-mail and Instant Messaging. "Document" also includes electronic or magnetic data, which shall be produced by written print out of the complete data.

13. "Communication" means any contact or act by which information or knowledge is transmitted or conveyed between two or more persons and includes, without limitation, written contacts (whether by letter, e-mail, electronic texting, Instant Messaging, memoranda, telegram, telex or other document) and oral contacts (whether by face-to-face meetings, telephone conversations or otherwise).
14. When used herein, "identify" means to state the full name, present or last known residential and business addresses, present or last known position and business affiliation, history of employment, place of incorporation or formation, and to identify each agent that acted for it with respect to the matters relating to the interrogatory or answer as the information applies to each individual, firm, partnership, proprietorship, joint venture, association, or other organization or entity.
15. As used herein, "describe" means to provide a detailed account of all information requested in the interrogatory, including dates of creation, dates of modification, location of information and related documents, an articulated scope of included information, any steps or actions taken related to the request, and any documents or things used in correlation with or evidencing the actions taken.
16. Whenever used herein, the singular shall be deemed to include the plural, and the plural shall be deemed to include the singular; the masculine shall be deemed to include the feminine and the feminine shall be deemed to include the masculine.
17. Documents should be produced at the time provided in the Rules of the office of Applicant's attorney of record, Keith Barritt.

### **INTERROGATORIES, REQUESTS FOR ADMISSION AND REQUESTS FOR PRODUCTION**

**Interrogatory No. 1.** Identify each individual who provided any information utilized in preparing Applicant's answers to the Interrogatories served by Opposer in this proceeding.

#### **RESPONSE:**

**Interrogatory No. 2.** State the date upon which Applicant first used the Applied-for Mark in United States commerce, and describe the circumstances of such first use including the manner of use, the details of the first sale of goods or services, the type of goods or services involved, the price charged, and the name of the customer.

**RESPONSE:**

**Interrogatory No. 3.**

Subsequent to the first use of Applied-For Mark in United States commerce, did you ever cease use of Applied-For Mark in United States commerce? If so, state the time period during which you ceased use of the Applied-For Mark in the United States.

**RESPONSE:**

**Interrogatory No. 4.**

Identify each use of the Applied-For Mark in United States commerce.

**RESPONSE:**

**Interrogatory No. 5.**

Identify with specificity all goods and services provided under the Applied-For Mark in United States commerce.

**RESPONSE:**

**Interrogatory No. 6.**

Identify each service in connection with which Applicant is currently using the Applied-For Mark in United States commerce.

**RESPONSE:**

**Interrogatory No. 7.**

Describe the general class and type of consumers for Applicant's goods and services provided under the Applied-For Mark.

**RESPONSE:**

**Interrogatory No. 8.**

Describe the channels of trade in which Applicant's goods and services provided under the Applied-For Mark are sold or offered for sale in United States commerce.

**RESPONSE:**

**Interrogatory No. 9.**

Identify with specificity each medium in which Applicant's goods and services provided under the Applied-For Mark in United States commerce have been advertised and promoted in the United States.

**RESPONSE:**

**Interrogatory No. 10.**

State the annual dollar amount spent by or on behalf of Applicant in advertising the Applied-For Mark in the United States for the years 2005-2012.

**RESPONSE:**

**Interrogatory No. 11.**

State the annual amount of revenue related to the sale of Applicant's goods and services provided under the Applied-For Mark in United States commerce for the years 2005-2012.

**RESPONSE:**

**Interrogatory No. 12.**

Identify the internet address of the home page of each internet web site whose content is controlled by Applicant or by any affiliate of Applicant on which Applicant's goods and services are offered or promoted under the Applied-for Mark.

**RESPONSE:**

**Interrogatory No. 13.**

Identify all internet web sites of others on which Applicant has published an advertisement relating to the kinds of goods or services that Applicant has offered or intends to offer under or by reference to the Applied-for Mark.

**RESPONSE:**

**Interrogatory No. 14.**

Identify each publication available in the United States in which Applicant has published an advertisement relating to the kinds of goods or services that Applicant has offered or intends to offer under or by reference to the Applied-for Mark.

**RESPONSE:**

**Interrogatory No. 15.**

Identify each trade or industry show in the United States in which Applicant has participated for the purpose of promoting the kinds of goods and services that Applicant has offered or intends to offer under or by reference to the Applied-for Mark.

**RESPONSE:**

**Interrogatory No. 16.**

Describe the relationship, if any, amongst and between "Artbank Illustration Library," "Artbank Ltd.,"

"Artbank International," "Artbank Gallery," and  
"Artbank.com Limited."

**RESPONSE:**

**Interrogatory No. 17.**

State the most recent date when a sale of any goods or services was made via the web site at [www.artbank.com](http://www.artbank.com).

**RESPONSE:**

**Interrogatory No. 18.**

State when the web site at [www.artbank.com](http://www.artbank.com) ceased to sell goods or services.

**RESPONSE:**

**Request for Admission No. 1.**

Admit that you have not used the Applied-for Mark in United States commerce between March 1, 2012 and February 28, 2009.

**RESPONSE:**

**Request for Admission No. 2.**

Admit that you have not used the Applied-for Mark in United States commerce since 2007.

**RESPONSE:**

**Request for Admission No. 3.**

Admit that you have not used the Applied-for Mark in United States commerce for "financial investment in the field of fine art."

**RESPONSE:**

**Request for Admission No. 4.**

Admit that you have not used the Applied-for Mark in United States commerce for "financing relating to fine art."

**RESPONSE:**

**Request for Admission No. 5.**

Admit that you have not used the Applied-for Mark in United States commerce for "financial and business services in the field of fine art including providing trading and point-of-sale financial services platforms for fine art transactions."

**RESPONSE:**

**Request for Admission No. 6.**

Admit that you have not used the Applied-for Mark in United States commerce for "arranging insurance, including title insurance, for works of fine art."

**RESPONSE:**

**Request for Admission No. 7.**

Admit that you have not used the Applied-for Mark in United States commerce for "valuation, due diligence and provenance services in the field of fine art."

**RESPONSE**

**Request for Admission No. 8.** Admit that you have not used the Applied-for Mark in United States commerce for "representing and assisting owners of fine art in the sale of that art."

**RESPONSE**

**Request for Admission No. 9.** Admit that you have not used the Applied-for Mark in United States commerce for "providing economic information relating to fine art."

**RESPONSE**

**Request for Admission No. 10.** Admit that you have not used the Applied-for Mark in United States commerce for "providing a register of works of fine art."

**RESPONSE**

**Request for Admission No. 11.** Admit that your use of the Applied-for Mark in United States commerce prior to April 24, 2007 was limited to licensing of the reproduction rights in art works and sales of works of art.

**RESPONSE:**

**Request for Admission No. 12.** Admit that your use of the Applied-for Mark in United States commerce prior to April 24, 2007 was *de minimus*.

**RESPONSE:**

**Request for Admission No. 13.** Admit that less than 25 persons in the United States have purchased goods and services from you provided under the Applied-for Mark since 1997.

**RESPONSE:**

**Interrogatory No. 19.** If you denied the foregoing request for admission, identify each person in the United States who has purchased goods and services from you provided under the Applied-for Mark since 1997.

**RESPONSE:**

**Request for Admission No. 14.** Admit that less than 5 persons in the United States have purchased goods and services from you provided under the Applied-for Mark since 2005.

**RESPONSE:**

**Interrogatory No. 20.** If you denied the foregoing request for admission, identify each person in the United States who has purchased goods and services from you provided under the Applied-for Mark since 2005.

**RESPONSE:**

**Request for Admission No. 15.** Admit that no persons in the United States have purchased goods and services from you provided under the Applied-for Mark since 2007.

**RESPONSE:**

**Interrogatory No. 21.** If you denied the foregoing request for admission, identify each person in the United States who has purchased goods and services from you provided under the Applied-for Mark since 2007 and state when the purchase was made.

**RESPONSE:**

**Request for Admission No. 16.** Admit that purchase orders and invoices attached hereto as Exhibit A are either genuine or are true and correct copies of the original documents and things that they purport to represent.

**RESPONSE:**

**Interrogatory No. 22.** If you denied the foregoing request for admission, identify the specific purchase orders and invoices included within Exhibit A that you contend are not genuine or are not true and correct copies of the original documents and things that they purport to represent, and the basis for your contention.

**RESPONSE:**

**Request for Admission No. 17.** Admit that purchase orders or invoices attached hereto as Exhibit A are the only purchase orders or invoices that reflect sales or your other transactions between Applicant and customers in the United States.

**RESPONSE:**

**Interrogatory No. 23.** If you denied the foregoing request for admission, identify all additional purchase orders or invoices of which you are aware that reflect your sales or your other transactions involving persons in the United States.

**RESPONSE:**

**Request for Admission No. 18.** Admit that none of the transactions represented by the documents contained in Exhibit A constitute "providing a website at which users can offer goods for sale and buy goods offered by others."

**RESPONSE:**



**Request for Admission No. 19.** Admit that the document attached marked Exhibit A-1 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 20.** Admit that the document attached marked Exhibit A-2 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 21.** Admit that the document attached marked Exhibit A-6 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 22.** Admit that the document attached marked Exhibit A-7 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 23.** Admit that the document attached marked Exhibit A-8 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 24.** Admit that the document attached marked Exhibit A-9 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 25.** Admit that the document attached marked Exhibit A-10 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 26.** Admit that the document attached marked Exhibit A-11 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 27.** Admit that the document attached marked Exhibit A-12 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 28.** Admit that the document attached marked Exhibit A-13 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 29.** Admit that the document attached marked Exhibit A-15 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 30.** Admit that the document attached marked Exhibit A-16 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 31.** Admit that the document attached marked Exhibit A-17 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 32.** Admit that the document attached marked Exhibit A-18 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 33.** Admit that the document attached marked Exhibit A-19 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 34.** Admit that the document attached marked Exhibit A-20 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 35.** Admit that the document attached marked Exhibit A-21 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 36.** Admit that the document attached marked Exhibit A-22 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 37.** Admit that the document attached marked Exhibit A-23 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 38.** Admit that the document attached marked Exhibit A-24 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 39.** Admit that the document attached marked Exhibit A-25 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 40.** Admit that the document attached marked Exhibit A-3 does not evidence the sale by Applicant of any goods or services.

**RESPONSE:**

**Request for Admission No. 41.** Admit that the document attached marked Exhibit A-14 does not evidence the sale by Applicant of any goods or services.

**RESPONSE:**

**Request for Production No. 1.** All documents relating to facts stated in your answers to Interrogatories 1 - 23.

**RESPONSE:**

Dated: March 19, 2012

Respectfully submitted,



John M. Cone  
Hitchcock Evert LLP  
P.O. Box 131709  
Dallas, Texas 75313-1709  
(214) 880-7002 Telephone  
(214) 953-1121 Facsimile  
jcone@hitchcockevert.com

ATTORNEY FOR OPPOSER  
ARTBANC INTERNATIONAL, LTD

**CERTIFICATE OF SERVICE**

I hereby certify that on this 19th day of March 2012, a true and correct copy of the foregoing document was served via U.S. First Class Mail, postage prepaid on Keith Barritt, Fish & Richardson P.C., P.O. Box 1022, Minneapolis MN 55440-1022.

  
\_\_\_\_\_  
John M. Cone

**Request for Admission No. 38.** Admit that the document attached marked Exhibit A-24 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 39.** Admit that the document attached marked Exhibit A-25 relates to the purchase of a license to reproduce a particular piece of artwork.

**RESPONSE:**

**Request for Admission No. 40.** Admit that the document attached marked Exhibit A-3 does not evidence the sale by Applicant of any goods or services.

**RESPONSE:**

**Request for Admission No. 41.** Admit that the document attached marked Exhibit A-14 does not evidence the sale by Applicant of any goods or services.

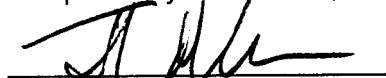
**RESPONSE:**

**Request for Production No. 1.** All documents relating to facts stated in your answers to Interrogatories 1 - 23.

**RESPONSE:**

*27th*  
Dated: March 19, 2012

Respectfully submitted,



John M. Cone  
Hitchcock Evert LLP  
P.O. Box 131709  
Dallas, Texas 75313-1709  
(214) 880-7002 Telephone  
(214) 953-1121 Facsimile  
jcone@hitchcockevert.com

ATTORNEY FOR OPPOSER  
ARTBANC INTERNATIONAL, LTD

**CERTIFICATE OF SERVICE**

I hereby certify that on this <sup>27</sup>~~19~~th day of March 2012, a true and correct copy of the foregoing document was served via U.S. First Class Mail, postage prepaid on Keith Barritt, Fish & Richardson P.C., P.O. Box 1022, Minneapolis MN 55440-1022.

  
\_\_\_\_\_  
John M. Cone

# Exhibit B

**From:** John Morant Cone  
**To:** ["Keith Barritt"](#)  
**Subject:** RE: Artbank International v. Artbank.com (F&R File 19127-0002PP1)  
**Date:** Tuesday, March 20, 2012 5:16:00 PM  
**Attachments:** [120319 Draft Rogs & Admissions.docx](#)

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Dear Kevin:

Still hoping to hear from you about an oral deposition.

In the meantime, I have served written discovery and attach a word version of my requests to avoid the need for your having to key the content in again.

Look forward to hearing from you.

Best regards,

John.

John M. Cone, PC

**Hitchcock Evert LLP**

750 North St. Paul Street

Suite 1110

Dallas, Texas 75201

+1-214-880-7002 (direct dial)

+1-214-953-1121 (facsimile)

[jcone@hitchcockevert.com](mailto:jcone@hitchcockevert.com)

This e-mail is sent by a law firm and may contain information that is privileged or confidential. If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.

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# Exhibit C

# Hitchcock · Evert

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John M. Cone, Esq.  
(214) 880-7002  
jcone@hitchcockevert.com

May 11, 2012

Keith A. Barritt  
Fish & Richardson P.C.  
1425 K Street, N.W.  
11th Floor  
Washington DC 20005

**Via Email**

**Re: ARTBANK Trademark Opposition No. 91194361  
Your File: 19127-0002PP1  
Our File: ARTB-35645**

Dear Mr. Barritt:

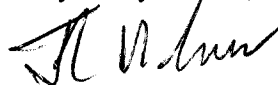
Opposer's Interrogatories and Requests for Production were served on March 27, 2012 and the time for responding has passed.

As required by 37 C.F.R. § 2.120(e), I write to inquire whether Applicant will respond to the discovery requests as put, or will confirm that it will not answer the Interrogatories or produce the requested documents.

If we cannot resolve this, Opposer will move the Board for an Order to Compel responses. 37 C.F.R. § 2.120(e).

In view of the approaching opening of Opposer's Testimony period and the deadline for serving its Pre-Trial Disclosures, please call me at your earliest convenience. If we have not resolved this by May 16, 2012 Opposer will file its Motion to Compel.

Very Truly Yours,



John M. Cone

# Exhibit D

**From:** [John Morant Cone](#)  
**To:** ["Keith Barritt"](#)  
**Subject:** RE: Trademark Opposition: Artbanc International v. Artbank.com  
**Date:** Thursday, May 17, 2012 2:20:00 PM

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Dear Keith:

I have not heard from you on the failure of your client to answer our discovery requests.

In view of approaching deadlines, I will file a motion to compel today.

Regards,

John.

John M. Cone, PC

**Hitchcock Evert LLP**

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